

House File 2304

HOUSE FILE _____
BY COMMITTEE ON COMMERCE,
REGULATION AND LABOR

(SUCCESSOR TO HF 2027)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the provision of workers' compensation
2 benefits, to the release of information concerning such
3 benefits, and to workers' compensation liability insurance.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 5406HV 80
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1 1 Section 1. Section 22.7, Code Supplement 2003, is amended
1 2 by adding the following new subsection:
1 3 NEW SUBSECTION. 48. Confidential information filed with
1 4 the workers' compensation commissioner as defined in section
1 5 86.45, subsection 1.
1 6 Sec. 2. Section 85.27, subsection 7, Code 2003, is amended
1 7 to read as follows:
1 8 7. If, after the third day of incapacity to work following
1 9 the date of sustaining a compensable injury which does not
1 10 result in permanent partial disability, or if, at any time
1 11 after sustaining a compensable injury which results in
1 12 permanent partial disability, an employee, who is not
1 13 receiving weekly benefits under section 85.33 or section
1 14 85.34, subsection 1, returns to work and is required to leave
1 15 work for one full day or less to receive services pursuant to
1 16 this section, the employee shall be paid an amount equivalent
1 17 to the wages lost at the employee's regular rate of pay for
1 18 the time the employee is required to leave work. For the
1 19 purposes of this subsection, "day of incapacity to work" means
1 20 eight hours of accumulated absence from work due to incapacity
1 21 to work or due to the receipt of services pursuant to this
1 22 subsection. The employer shall make the payments under this
1 23 subsection as wages to the employee after making such
1 24 deductions from the amount as legally required or customarily
1 25 made by the employer from wages. Payments made under this
1 26 subsection shall be required to be reimbursed pursuant to any
1 27 insurance policy covering workers' compensation. Payments
1 28 under this subsection shall not be construed to be payment of
1 29 weekly benefits.
1 30 Sec. 3. Section 85.36, Code 2003, is amended by adding the
1 31 following new subsection:
1 32 NEW SECTION. 5A. In the case of an employee who is
1 33 employed pursuant to a contract for a specified period of
1 34 time, but is paid on a pay period basis where the pay periods
1 35 extend beyond the contract period, the employee's weekly gross
2 1 earnings shall be computed by dividing the total amount paid
2 2 to the employee pursuant to the contract by fifty=two.
2 3 Sec. 4. Section 85.38, subsection 2, Code 2003, is amended
2 4 to read as follows:
2 5 2. CREDIT FOR BENEFITS PAID UNDER GROUP PLANS. In the
2 6 event the employee ~~with a disability~~ shall receive any
2 7 benefits, including medical, surgical, or hospital benefits,
2 8 under any group plan covering nonoccupational disabilities
2 9 contributed to wholly or partially by the employer, which
2 10 benefits should not have been paid or payable if any rights of
2 11 recovery existed under this chapter, chapter 85A, or chapter
2 12 85B, then the amounts so paid to the employee from the group
2 13 plan shall be credited to or against any compensation
2 14 payments, including medical, surgical, or hospital, made or to
2 15 be made under this chapter, chapter 85A, or chapter 85B. The
2 16 amounts so credited shall be deducted from the payments made
2 17 under these chapters. Any nonoccupational plan shall be
2 18 reimbursed in the amount deducted. This section shall not
2 19 apply to payments made under any group plan which would have
2 20 been payable even though there was an injury under this

2 21 chapter or an occupational disease under chapter 85A or an
2 22 occupational hearing loss under chapter 85B. Any employer
2 23 receiving such credit shall keep the employee safe and
2 24 harmless from any and all claims or liabilities that may be
2 25 made against them by reason of having received the payments
2 26 only to the extent of the credit.

2 27 If an employer denies liability under this chapter, chapter
2 28 85A, or chapter 85B, for payment for any medical services
2 29 received or weekly compensation requested by an employee with
2 30 ~~a disability~~, and the employee is a beneficiary under either
2 31 an individual or group plan for nonoccupational illness,
2 32 injury, or disability, the nonoccupational plan shall not deny
2 33 payment for the medical services received or benefits under
2 34 ~~the plan~~ on the basis that the employer's liability ~~for the~~
2 35 ~~medical services~~ under this chapter, chapter 85A, or chapter
3 1 85B is unresolved.

3 2 Sec. 5. NEW SECTION. 86.16 HEARINGS == SCHEDULING.

3 3 Pursuant to rules adopted under chapter 17A, all contested
3 4 cases before the workers' compensation commissioner shall be
3 5 brought to issue and heard on a date that is no more than
3 6 fourteen months from the date the original notice and petition
3 7 is filed, except that a continuance for a hearing date later
3 8 than fourteen months from the date of filing may be granted
3 9 upon a showing of good cause.

3 10 Sec. 6. Section 86.24, subsection 4, Code 2003, is amended
3 11 to read as follows:

3 12 4. A transcript of a contested case proceeding shall be
3 13 provided by an appealing party at the party's cost ~~and an~~
3 14 ~~affidavit shall be filed by the appealing party or the party's~~
3 15 ~~attorney with the workers' compensation commissioner within~~
3 16 ~~ten days after the filing of the appeal to the workers'~~
3 17 ~~compensation commissioner stating that the transcript has been~~
3 18 ~~ordered and identifying the name and address of the reporter~~
3 19 ~~or reporting firm from which the transcript has been ordered.~~

3 20 Sec. 7. NEW SECTION. 86.45 CONFIDENTIAL INFORMATION.

3 21 1. "Confidential information", for the purposes of this
3 22 section, means all information that is filed with the workers'
3 23 compensation commissioner as a result of an employee's injury
3 24 or death that would allow the identification of the employee
3 25 or the employee's dependents. Confidential information
3 26 includes first reports of injury and subsequent reports of
3 27 claim activity. Confidential information does not include
3 28 pleadings, motions, decisions, opinions, or applications for
3 29 settlement that are filed with the workers' compensation
3 30 commissioner.

3 31 2. The workers' compensation commissioner shall not
3 32 disclose confidential information except as follows:

3 33 a. Pursuant to the terms of a written waiver of
3 34 confidentiality executed by the employee or the dependents of
3 35 the employee whose information is filed with the workers'
4 1 compensation commissioner.

4 2 b. To another governmental agency, or to an advisory,
4 3 rating, or research organization, for the purpose of compiling
4 4 statistical data, evaluating the state's workers' compensation
4 5 system, or conducting scientific, medical, or public policy
4 6 research, where such disclosure will not allow the
4 7 identification of the employee or the employee's dependents.

4 8 c. To the employee or to the agent or attorney of the
4 9 employee whose information is filed with the workers'
4 10 compensation commissioner.

4 11 d. To the person or to the agent of the person who
4 12 submitted the information to the workers' compensation
4 13 commissioner.

4 14 e. To an agent, representative, attorney, investigator,
4 15 consultant, or adjuster of an employer, or insurance carrier
4 16 or third-party administrator of workers' compensation
4 17 benefits, who is involved in administering a claim for such
4 18 benefits related to the injury or death of the employee whose
4 19 information is filed with the workers' compensation
4 20 commissioner.

4 21 f. To all parties to a contested case proceeding before
4 22 the workers' compensation commissioner in which the employee
4 23 or a dependent of the employee, whose information is filed
4 24 with the workers' compensation commissioner, is a party.

4 25 g. In compliance with a subpoena.

4 26 h. To an agent, representative, attorney, investigator,
4 27 consultant, or adjuster of the employee, employer, or
4 28 insurance carrier or third-party administrator of insurance
4 29 benefits, who is involved in administering a claim for
4 30 insurance benefits related to the injury or death of the
4 31 employee whose information is filed with the workers'

4 32 compensation commissioner.

4 33 3. This section does not create a cause of action for a
4 34 violation of its provisions against the workers' compensation
4 35 commissioner or against the state or any governmental
5 1 subdivision of the state.

5 2 Sec. 8. Section 87.11, unnumbered paragraph 1, Code 2003,
5 3 is amended to read as follows:

5 4 When an employer coming under this chapter furnishes
5 5 satisfactory proofs to the insurance commissioner of such
5 6 employer's solvency and financial ability to pay the
5 7 compensation and benefits as by law provided and to make such
5 8 payments to the parties when entitled thereto, or when such
5 9 employer deposits with the insurance commissioner security
5 10 satisfactory to the insurance commissioner ~~and the workers'~~
~~5 11 compensation commissioner~~ as guaranty for the payment of such
5 12 compensation, such employer shall be relieved of the
5 13 provisions of this chapter requiring insurance; but such
5 14 employer shall, from time to time, furnish such additional
5 15 proof of solvency and financial ability to pay as may be
5 16 required by such insurance commissioner ~~or workers'~~
~~5 17 compensation commissioner~~. Such security shall be held in
5 18 trust for the sole purpose of paying compensation and benefits
5 19 and is not subject to attachment, levy, execution,

5 20 garnishment, liens, or any other form of encumbrance. A
5 21 political subdivision, including a city, county, community
5 22 college, or school corporation, that is self-insured for
5 23 workers' compensation is not required to submit a plan or
5 24 program to the insurance commissioner for review and approval.

5 25 Sec. 9. Section 87.11, unnumbered paragraph 3, Code 2003,
5 26 is amended to read as follows:

5 27 If an employer becomes insolvent and a debtor under 11
5 28 U.S.C., on or after January 1, 1990, or ceases doing business,
5 29 this paragraph applies. The commissioner of insurance
5 30 commissioner may request of the workers' compensation
5 31 commissioner that all future payments of workers' compensation
5 32 weekly benefits, medical expenses, or other payments pursuant
5 33 to chapter 85, 85A, 85B, 86, or 87 be commuted to a present
5 34 lump sum. The workers' compensation commissioner shall fix
5 35 the lump sum of probable future medical expenses and weekly
6 1 compensation benefits, or other benefits payable pursuant to
6 2 chapter 85, 85A, 85B, 86, or 87, capitalized at their present
6 3 value upon the basis of interest at the rate provided in
6 4 section 535.3 for court judgments and decrees. If an employer
6 5 ceases doing business without becoming insolvent, the

6 6 insurance commissioner shall publish notice of the time and
6 7 manner for filing claims against the employer in a newspaper
6 8 in general circulation in the county or counties within the
6 9 state where the employer is known to have maintained a place
6 10 of business. The notice shall be published once each week for
6 11 three consecutive weeks with the last publication not less
6 12 than thirty days before the time for filing claims expires.

6 13 Defects in the notice or publication shall not affect the
6 14 period for filing claims against the employer or give rise to
6 15 a claim against the insurance commissioner. All claims that
6 16 are not otherwise barred shall become barred if not filed
6 17 within five years after the date the employer ceased doing
6 18 business, as determined by the insurance commissioner,

6 19 including claims for review reopening, benefits under section
6 20 85.27, and latent injuries. The commissioner of insurance

6 21 commissioner shall be discharged from all further liability
6 22 for the commuted workers' compensation claim upon payment of
6 23 the present lump sum to either the claimant, or a licensed
6 24 insurer for purchase of an annuity or other periodic payment
6 25 plan for the benefit of the claimant.

6 26 Sec. 10. Section 87.14A, Code 2003, is amended to read as
6 27 follows:

6 28 87.14A INSURANCE ~~OR BOND~~ REQUIRED.

6 29 An employer subject to this chapter and chapters 85, 85A,
6 30 85B, and 86 shall not engage in business without first
6 31 obtaining insurance covering compensation benefits or
6 32 obtaining relief from insurance as provided in this chapter ~~or~~
~~6 33 furnishing a bond pursuant to section 87.16.~~ A person who
6 34 willfully and knowingly violates this section is guilty of a
6 35 class "D" felony.

7 1 Sec. 11. Section 87.19, unnumbered paragraph 1, Code 2003,
7 2 is amended to read as follows:

7 3 Upon the receipt of information by the workers'
7 4 compensation commissioner of any employer failing to comply
7 5 with ~~sections 87.16 and 87.17~~ section 87.14A, the commissioner
7 6 shall at once notify such employer by certified mail that
7 7 unless such employer comply with the requirements of law,

7 8 legal proceedings will be instituted to enforce such
7 9 compliance.
7 10 Sec. 12. Section 87.20, Code 2003, is amended to read as
7 11 follows:
7 12 87.20 REVOCATION OF RELEASE FROM INSURANCE.
7 13 The insurance commissioner ~~with the concurrence of the~~
~~7 14 workers' compensation commissioner~~ may, at any time, upon
7 15 reasonable notice to such employer and upon hearing, revoke
7 16 for cause any order theretofore made relieving any employer
7 17 from carrying insurance as provided by this chapter.
7 18 Sec. 13. Sections 87.16 and 87.17, Code 2003, are
7 19 repealed.
7 20 HF 2304
7 21 av/es/25